



**MILPITAS CITY COUNCIL MEETING AGENDA
DECEMBER 16, 2008**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER at 6:00 PM**
- II. ROLL CALL**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**
 - CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to CA Government Code §54957.6. City Negotiator: Carmen Valdez
Employee Groups: Milpitas Professional and Technical Group (ProTech), LIUNA (Mid Management, Confidential Unit), MPOA (Milpitas Police Officers Association), IAFF (International Association of Firefighters).
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- IV. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- V. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- VI. INVOCATION (Councilmember Gomez)**
- VII. APPROVAL OF COUNCIL MEETING MINUTES** – amended minutes of November 18, 2008 and December 2, 2008
- VIII. SCHEDULE OF MEETINGS** – Council Calendars for December 2008 and January 2009
- IX. PRESENTATION**
 - Recognition to City Building Maintenance Staff for Efforts at City Hall
- X. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- XI. ANNOUNCEMENTS**
- XII. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XIII. APPROVAL OF AGENDA**
- XIV. CONSENT CALENDAR (Items with asterisk*)**

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on

XV. PUBLIC HEARINGS

- 1. Approve Purchase of Property from County of Santa Clara for Use as a Public Park (Staff Contact: Diana Barnhart, 586-3059)**
- 2. Receive Report and Issue Order Confirming Assessment on Summary Abatement of an Immediate Hazard to the Public at 874 Berryessa Street (Staff Contact: Bronwen Lacey, 586-3043)**
- 3. Introduce Ordinance No. 278 and Adopt Two Resolutions to Enable the Establishment of City of Milpitas Community Facilities District No. 2008-1 for Public Services (Staff Contact: Emma Karlen, 586-3145)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

RA4. Receive Progress Report on the new Milpitas Library, Midtown East Parking Garage, North Main Streetscape Projects No. 8161, No. 8162, and No. 8165 (Staff Contact: Steve Erickson, 586-3414)

***RA5. Approve Agreement with The Mills, a Simon Co., to Enter Into a Lease for the Freeway Sign at I-880/Montague Expressway (Staff Contact: Diana Barnhart, 586-3059)**

***RA6. Authorize Agency Director to Execute Amendment No. 1 to the Library Project Stabilization Agreement with the Building Trades Council for the New Milpitas Senior Center, Project No. 8176 (Staff Contact: Greg Armendariz, 586-3317)**

RA7. Agency Adjournment

XVII. REPORTS OF OFFICERS

City Council

- 4. Consider Mayor's Recommendations for Appointments and Re-Appointments to City Commissions (Contact: Mayor Livengood, 586-3027)**
- 5. Report from Mayor Livengood regarding City Council Subcommittees (Contact: Mayor Livengood, 586-3027)**
- 6. Request from Mayor Livengood regarding Funding for the Milpitas Firefighters Holiday Toy & Food Drive (Contact: Mayor Livengood, 586-3027)**
- 7. Report from Mayor Livengood regarding Funding for the Domestic Violence Information and Resources workshop (Contact: Mayor Livengood, 586-3027)**
- * 8. Request from Mayor Livengood regarding Statewide Park Development and Community Revitalization Act grant opportunity for Parks and Recreation (Contact: Mayor Livengood, 586-3027)**

9. **Consideration of Amendment to Ordinance No. 243 Regarding Campaign Contributions (Contact: Councilmember Gomez, 586-3031)**

XVIII. NEW BUSINESS

10. **Economic Development Update (Staff Contact: Diana Barnhart, 586-3059)**
- * 11. **Approve One Youth Sports Assistance Fund Grant to Milpitas Little League Baseball North (Staff Contact: Aaron Bueno, 586-3226)**
- * 12. **Receive First Quarterly Noise Report During Trial Period for Residential Solid Waste Collection 6:00 AM Start Time (Staff Contact: Kathleen Phalen, 586-3345)**
- * 13. **Authorize Staff to Apply for Tree City USA Recertification for 2008 (Staff Contact: Greg Armendariz, 586-3317)**

XIX. ORDINANCES

14. **Waive the First Reading and Introduce Ordinance No. 43.210 Amending Chapter 100, Title V (Traffic) of the Milpitas Municipal Code (Staff Contact: Jaime Rodriguez, 586-3335)**
- * 15. **Waive the Second Reading and Adopt Ordinance No. 38.781 Amending the Zoning Ordinance and Related Map (Staff Contact: Sheldon Ah Sing, 586-3278)**
- * 16. **Waive the Second Reading and Adopt Ordinance No. 38.782 Amending the Zoning Ordinance for the Purpose of Approving Zoning Amendment No. ZC2007-3 (Staff Contact: Judie Gilli, 586-3280)**
- * 17. **Waive the Second Reading and Adopt Ordinance No. 38.784 Amending the Zoning Ordinance regarding Massage Establishments (Staff Contact: Sheldon Ah Sing, 586-3278)**

XX. RESOLUTIONS

- * 18. **Adopt a Resolution Amending the Building Fee Schedule to Include a State-Mandated Building Standards Administration Special Revolving Fund Fee, Effective January 1, 2009 (Staff Contact: Keyvan Irannejad, 586-3244)**
- * 19. **Adopt a Resolution Authorizing Modification to PERS Plan for Members of the Mid-Management and Confidential unit (Staff Contact: Carmen Valdez, 586-3086)**
- * 20. **Adopt a Resolution Authorizing Modification to PERS Plan for Members of Milpitas Supervisors Association (MSA) (Staff Contact: Carmen Valdez, 586-3086)**
- * 21. **Adopt a Resolution Implementing Pre-Tax Payroll Deduction Plan for Service Credit Purchase Under Internal Revenue Code 414(H)(2) (Contribution Code 14) (Staff Contact: Carmen Valdez, 586-3086)**
- * 22. **Adopt a Resolution Approving the Sole Source Purchase of Forty-Five Self Contained Breathing Apparatus (SCBA) from Drager Safety, Inc. in the Amount of \$224,972.51 (Staff Contacts: Geoffrey Maloon, 586-2820, and Chris Schroeder, 586-3161)**

XXI. BIDS AND CONTRACTS

- * 23. Approve Agreement with Schaaf & Wheeler for Consulting Services for Storm Drain Master Plan Update, Project No. 3701 (Staff Contact: Fernando Bravo, 586-3328)
- * 24. Award Construction Contract to George Bianchi Construction, Inc. for State Route 237 Milpitas Monument Sign, Project No. 4170 (Staff Contact: Jeff Leung, 586-3326)
- * 25. Approve \$22,554.22 for the Purchase of Rain Master Irrigation Equipment for the City Park Irrigation System Rehabilitation Project (Staff Contact: Chris Schroeder, 586-3161)
- * 26. Authorize the City Engineer to Execute Contract Change Order No. 11 with Anderson Pacific Engineering for the Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)

XXII. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, JANUARY 6, 2009**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION, CONTACT THE OPEN GOVERNMENT SUBCOMMITTEE

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, and at the Milpitas Library during normal business hours.

BECOME A CITY COMMISSIONER!

Currently, there are openings for the:

Arts Commission (alternate)

Public Art Committee

Mobile Home Park Rental Review Board

Planning Commission (alternate)

Telecommunications Commission (Industry Rep.)

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.

Contact the City Clerk's office (586-3003) for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD phone number (408) 586-3013.

AGENDA REPORTS

XV. PUBLIC HEARINGS

1. **Approve Purchase of Property from County of Santa Clara for Use as a Public Park (Staff Contact: Diana Barnhart, 586-3059)**

Background: As part of the Centria Condominium project, park in-lieu fees were paid for the development of a public park abutting the housing units. The County of Santa Clara currently owns the remnant parcel and agreed to sell the property to the City. Both the City and County conducted appraisals and have agreed upon a purchase price of \$479,000. This price represents a compromise between the County appraisal (\$540,000) and the City's appraisal (\$418,000).

This remnant parcel is 0.48 acres and is located at the corner of Great Mall Parkway and South Abel Street (see site map in agenda packet materials). It will remain a separate parcel belonging to the City, but the park design and improvements will be completed by the new owner, Lyons Apartments. The Planning Department will coordinate the final design of the park.

Fiscal Impact: There is no fiscal impact associated with this action as funds are available in the Park In Lieu Fund.

Recommendations:

1. Hold a public hearing for any public testimony; and, move to close public hearing.
2. Approve the purchase of Assessor's Parcel Number 086-012-010 from the County of Santa Clara for use as a public park.

2. **Receive Report and Issue Order Confirming Assessment on Summary Abatement of an Immediate Hazard to the Public at 874 Berryessa Street (Staff Contact: Bronwen Lacey, 586-3043)**

Background: On October 16, 2008, the City received several complaints from the public and calls from various television news stations regarding the trash and graffiti at 874 Berryessa St. City personnel, including the City Manager, Fire Chief, Fire Marshal and Code Enforcement Officers, responded to the property pursuant to provisions of the Municipal Code. The City Manager determined that the accumulation of trash, including a car battery and extensive amounts of dog feces adjacent to the public right-of-way, the easily accessible condition of the vacant home, and the three-foot high dried weeds and mattresses in the back yard and side yard constituted an immediate threat to public health and ordered the situation to be abated.

The Department of Public Works removed all of the refuse and rubbish in the front yard, abated the weeds in the back yard, covered the broken windows, removed the graffiti on the front of the house and secured the front and garage doors. Gas, electricity, and water were all disconnected. Department of Public Works' employees collected all of the trash and hauled it to Newby Island. The City incurred \$2,518.78 to abate the hazard at 874 Berryessa St.

Prior to conducting the site visit, Code Enforcement officers conducted an APN search to determine the owner of 874 Berryessa St. and confirmed that Deutsche Bank in care of Barclays Capital Real Estate was the present owner. Staff then attempted to contact Barclays Capital Real Estate, but was only able to leave a message for the listed bank representative. Eventually, staff spoke with a Barclays' representative who would not provide any information or even confirm that Barclays was the property owner. Staff informed the representative that the home had been trashed, that the media was covering the matter, and that the City urgently needed to speak with someone with authority over the property. It was not until the next day that a Barclays' representative contacted staff. Staff informed the bank representative of the property's condition

and the City's action. In addition, Barclays was informed that as the property owner it would be billed for the City's abatement costs.

Pursuant to Municipal Code section V-202-12.02, on November 4, 2008, the City Council ordered the owner of 874 Berryessa St. to show cause at the scheduled public hearing as to why the owner is not liable for the City's costs to abate a danger to the public on the owner's property. Notice of the hearing was mailed to the owner and resident on November 24, 2008.

Fiscal Impact: None.

Recommendations:

1. Request the property owner to show cause why abatement costs should not be asserted against it.
 2. Conduct and close the Public Hearing, following any public testimony.
 3. Issue an order confirming the assessment of \$2,518.78 against the owner of 874 Berryessa St. for the cost to abate the hazardous condition at the property.
3. **Introduce Ordinance No. 278 and Adopt Two Resolutions of the City to Enable the Establishment of City of Milpitas Community Facilities District No. 2008-1 for Public Services (Staff Contact: Emma Karlen, 586-3145)**

Background: On October 21, 2008, the City Council adopted a resolution adopting an Amended and Restated Set of Local Goals and Policies for community facilities districts and declaring its intention to establish a Community Facilities District No. 2008-1 (Public Services) and to Levy a Special Taxes Pursuant to the Mello-Roos Community Facilities Act of 1982 (Resolution). The adopted Resolution called for a public hearing after 30 days from the date of adoption to inquire into the establishment of the Community Facilities District No. 2008-1 ("CFD 2008-1"), the services eligible to be funded by CFD 2008-1, the levy of special taxes in CFD 2008-1, and the possible future annexation of territory to CFD 2008-1. Milpitas Station LLC ("developer") has indicated its readiness to consent to the formation of CFD 2008-1 and waived certain requirements regarding the timing of the election so that the election can be held immediately after it has been called by the City Council.

The area included within CFD 2008-1, at formation, consists of four parcels of real property owned by the developer, located within the Transit Area Specific Plan.

Service provided by CFD 2008-1 will include all direct and incidental costs related to providing police protection, fire protection, maintenance operations and lighting of public facilities including: parks, parkways, streets, roads, street landscaping and open space, and storm drainage system. Any services to be funded by CFD 2008-1 must be in addition to those provided in the territory of CFD 2008-1 before the date of its creation, and may not supplant services already available within the territory when CFD 2008-1 is created. It is expected that the services will be provided by the City, either with its own employees or by contract with third parties, or any combination thereof. A hearing report that provides greater detail on these matters is included in the Council packet

The proceedings for the formation of CFD 2008-1 are as follows:

Staff will present a report on the Community Facilities District, including a brief description of the services and the cost of providing such services.

The public hearing will follow for Council to receive comments from the public. The City Council will then close the public hearing.

After closing the public hearing, the Council may then consider the adoption of a resolution to establish Community Facilities District No. 2008-1 (Public Services), and to call for a Special

Election for the purpose of submitting to the qualified electors in that community facilities district the levy of the special tax and the establishment of an appropriations limit.

The City Council may then direct the City Clerk to officially open the ballots, announce the results of the election, and complete one copy of the Statement of Election results. (The City Clerk has received a written waiver and consent from the qualified elector agreeing to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements related to the conduct of an election. Therefore, the City Clerk may open ballots immediately after the adoption of a resolution calling for an election by the City Council under California law.)

The City Council will then consider the adoption of a resolution declaring the results of the Special Election. The Statement of Election Results shall be attached to the resolution.

The City Council may then introduce an Ordinance levying and apportioning the special taxes in CFD 2008-1. Staff recommends that the City Council direct the City Attorney to read the title of Ordinance No. 278 and waive the first reading of the ordinance beyond the title.

Fiscal Impact: None at this time. The formation of CFD 2008-1 will enable the City to levy special tax in the Transit Area to fund essential public services.

Recommendations: Take the following actions individually:

1. Mayor shall open the public hearing for comments on the proposed CFD formation.
2. Move to close the public hearing.
3. Adopt a Resolution establishing Community Facilities District No. 2008-1 and taking other related actions.
4. Direct the City Clerk to canvas the results of the election.
5. Receive a report on the election results from the City Clerk.
6. Adopt a Resolution Declaring the Results of the Special Election Held on December 16, 2008 for the Community Facilities District No. 2008-1 (Public Services).
7. Direct the City Attorney to read aloud the title of Ordinance No. 278.
8. Waive the first reading of Ordinance No. 278 beyond the title.
9. Introduce Ordinance No. 278.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

RA4. Receive Progress Report on the new Milpitas Library, Midtown East Parking Garage, North Main Streetscape Projects No. 8161, No. 8162, and No. 8165 (Staff Contact: Steve Erickson, 586-3414)

Background: Completion of the Library Project and construction of the Streetscape Project continues. Staff will provide a brief presentation on their progress and update on the library move.

Library, Project No. 8162

County Library staff began moving into the new building on November 17th. The Library move will take approximately six weeks. S. J. Amoroso continues with finish work, signage installation, punch-list repairs, and final clean-up. The work remains on schedule and budget.

Parking Garage, Project No. 8161

Installation of graphics and signage within the garage is underway.

N. Main Streetscape, Phase II, Project No. 8165

North Main Street surface and traffic signal improvement work continues. The contractor has started installation of surface improvements, a new water line and storm drainage improvements within Carlo Street.

Fiscal Impact: None.

Recommendation: Receive a progress report from staff on the new Milpitas Library, Midtown East Parking Garage, and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165.

***RA5. Approve Agreement with The Mills, a Simon Co., to Enter Into a Lease for the Freeway Sign at I-880/Montague Expressway (Staff Contact: Diana Barnhart, 586-3059)**

Background: On March 18, 2008, the City Council/Agency approved termination of the lease with The Mills, a Simon company, for the freeway sign located at I-880 and Montague Expressway. The termination provided the required six months notice to the Great Mall so that the company could remove the sign.

The Mills proposed a continuation of the agreement to allow the sign to remain during the process of selecting a new sign developer and during the planning and permitting approval process. The Mills has proposed to lease the sign on a month to month basis for no longer than six months at twice the current monthly rate. The company has offered to trim the trees so that the sign is more visible. Once the trees are trimmed, The Mills agreed to pay 2.5 times the current monthly rent.

The most recent lease rate was \$10,000/year or \$833.33/month. If the Agency/Council approves the recommendation to continue a month to month lease with The Mills, then the monthly rate would be \$1,666. Once the trees are trimmed, the rate will increase to \$2,083/month.

Fiscal Impact: There is no fiscal impact associated with this action.

Recommendation: Authorize the Agency Director to execute an agreement with The Mills to lease the freeway sign site at I-880 and Montague Expressway with the terms as follows: a month to month lease at a rate of \$1,666 and once the trees are trimmed, the rate will increase to \$2,083/month.

***RA6. Authorize Agency Director to Execute Amendment No. 1 to the Library Project Stabilization Agreement with Building Trades Council for the New Milpitas Senior Center, Project No. 8176 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On September 19, 2006, the Agency approved a Project Stabilization Agreement for the Library Project. The purpose of this agreement was to promote efficiency of construction operations on the new Milpitas Library. Specifically, the Project Stabilization Agreement provided for procedures for the peaceful settlement of labor disputes and grievances without strikes, work stoppages or lockouts, thereby promoting the public interest by assuring the timely and economical completion of the Library Project.

Staff now recommends that this Project Stabilization Agreement be amended so as to extend its provisions to the construction of the new Senior Center Project. In a project of this magnitude and project schedule length, the potential for work disruption is substantial because of the existence of multiple sub-contractors and bargaining units on the job site at the same time. This Amendment of the Project Stabilization Agreement would provide a labor commitment to maintain continuity of work, thereby avoiding difficulties and minimizing the potential threat of unanticipated, dispute-related costs.

If approved, the Amendment to the Project Stabilization Agreement would be distributed to potential bidders on the Senior Center Project.

Fiscal Impact: None.

Recommendation: Authorize Agency Director to Execute Amendment No. 1 to the Library Project Stabilization Agreement with Building Trades Council for the New Milpitas Senior Center, Project No. 8176 in the form or substantially the same form as prepared for the library, subject to the approval of the Agency Counsel.

RA7. Agency Adjournment

XVII. REPORTS OF OFFICERS

City Council

4. Consider Mayor's Recommendations for Appointments and Re-Appointments to City Commissions (Contact: Mayor Livengood, 586-3027)

Background: Mayor Livengood recommends the following persons to serve on the Commissions noted below.

Community Advisory Commission

Re-appoint Nika Ma Chen as Alternate No. 1 to a term that expires in January 2011.

Appoint Phong Nguyen (current Alternate No. 3) as Alternate No. 2 to a term that expires in January 2011.

Appoint Bella Sangalang (current Alternate No. 4) as Alternate No. 3 to a term that expires in January 2010.

Newly appoint Dan Manassau as Alternate No. 4 to a term that expires in January 2010.

Planning Commission

Re-appoint Lawrence Ciardella to a term that expires in December 2011.

Re-appoint Noella Tabladillo to a term that expires in December 2011.

Appoint Aslam Ali (current alternate) as a regular member to a term that expires in Dec. 2009.

Senior Advisory Commission

Re-appoint Bal Daquigan to a term that expires in December 2010.

Re-appoint Amanda Santos to a term that expires in December 2010.

Re-appoint Florentino Menor to a term that expires in December 2010.

Re-appoint Karen Adams as Alternate No. 2 to a term that expires in December 2010.

Recommendation: Consider the recommendations from Mayor Livengood, and move to approve his recommended appointments to City of Milpitas Commissions.

5. Report from Mayor Livengood regarding City Council Subcommittees (Contact: Mayor Livengood, 586-3027)

Background: Mayor Livengood has proposed a new structure for City Council Subcommittees, which would reduce the total number of Subcommittees to five. He proposes the following: Rules, Finance, Economic Development, Neighborhood Services and Education, and Transportation and Land Use Subcommittees. He has provided a memo in the agenda packet.

Recommendation: Receive a report from Mayor Livengood on his new proposed structure for five City Council Subcommittees.

6. Request from Mayor Livengood regarding Funding for the Milpitas Firefighters Holiday Toy & Food Drive (Contact: Mayor Livengood, 586-3027)

Background: Mayor Livengood received a letter on December 3 from the Milpitas Firefighters Toy Program encouraging community contributions to the annual Firefighters Holiday Toy Drive. He has provided the memo included in the Council agenda packet.

Fiscal impact: Funds for donations may be allocated from the City Council's Community Promotions Unallocated budget. Prior to this recommendation, \$6,500 was remaining in that fund. If this item is approved, the balance would be \$5,000.

Recommendation: Hear report of Mayor Livengood and consider his request to authorize a donation in the amount of \$1,500 to the Milpitas Firefighters Holiday Toy Drive.

7. Report from Mayor Livengood regarding Funding for the Domestic Violence Information and Resources workshop (Contact: Mayor Livengood, 586-3027)

Background: Mayor Livengood reports to City Council in his December 7 memo on the Domestic Violence Information and Resources Workshop recently held at the India Community Center in Milpitas. He recommends to the City Council to make a donation to help defray costs for that event. Information about the workshop is included in the agenda packet.

Fiscal impact: Funds for this donation would be allocated from the City Council's Community Promotions Unallocated budget. If the agenda item above is approved, there would be \$5,000 in that budget. If this donation item is approved for \$500, then \$4,500 would be the remaining balance.

Recommendation: Mayor Livengood recommends that the City Council appropriate \$500 from the Community Promotions Unallocated funds to make a donation to the Domestic Violence Intervention Collaborative, which sponsored the Workshop on December 10 in Milpitas.

*** 8. Request from Mayor Livengood regarding Statewide Park Development and Community Revitalization Act grant opportunity for Parks and Recreation (Contact: Mayor Livengood, 586-3027)**

Background: Mayor Livengood would like City staff to monitor current legislation regarding a new grant program which may yield possible funding for Milpitas parks. In his December 6 memo to the City Council, he identified a specific area of the City, including the Temple, Adams, Gadsden and Calaveras neighborhood – for possible projects in the future. The Mayor's memo is included in the Council agenda packet.

Recommendation: Mayor Livengood recommends that the City Council direct staff to monitor the Statewide Park Development and Community Revitalization Act of 2008 and to return to the City Council before any application would be submitted for grant funding.

9. Consideration of Amendment to Ordinance No. 243 Regarding Campaign Contributions (Contact: Councilmember Gomez, 586-3031)

Background: Councilmember Gomez requests the City Council to consider amending the existing campaign contribution limits, for Milpitas Mayor and City Councilmember elections. The current limit is \$350 per election, according to Milpitas Municipal Code I-210-3.10. Mr. Gomez proposes to increase that amount to \$500, within any twelve month period.

Fiscal Impact: None.

Recommendations:

1. Hear report of Councilmember Gomez, and consider ordinance amendment.
2. Waive the first reading beyond the title of Ordinance No. 243.4, following the reading of the title by the City Attorney.
3. Move to introduce Ordinance No. 243.4.

XVIII. NEW BUSINESS

10. Economic Development Update (Staff Contact: Diana Barnhart, 586-3059)

Background:

The purpose of this first report is to focus what is happening in Milpitas in light of the bigger economic picture. In summary, the City's location in Silicon Valley will assist in weathering the global economic storm. The City will not be immune to retail closures, property reassessments and private industry layoffs which will affect future direct and future revenue streams. Working with local retailers and corporate offices will allow the City to anticipate and plan for business changes that are beyond local control and convey to our business neighbors local willingness to assist them in any way possible.

The economy is hit in multiple fronts: a declining housing market, lack of consumer and lenders' confidence and a volatile stock market. The federal government has confirmed that the country is in a recession and almost all economists agree that the economic situation will get worse before it will get better. They do not foresee any recovery until 2010-11.

Silicon Valley is not immune to the economic turbulence, although most all economic forecasters believe that the regional economy will weather the storm better than other areas in the nation. Dr. Peter Linneman, a local economist, notes that while most all of the talk is negative, the drive for innovation in Silicon Valley remains strong. He recalled that in the late 1970s and early 1980s economic downturn, relatively few knew that Bill Gates and others like him were creating the next innovations to drive market turnaround. Venture capital is still available; companies are expanding, but set against the looming national market, area economies will continue to sag during the next year.

Milpitas is home to a broad spectrum of economic drivers, which bodes well for "holding the ship steady" during the next year. Commercial building permits applications are flat, but Linear Technology recently applied for a multi-million dollar tenant upgrade. Seagate consolidated its Milpitas manufacturing with its other offshore manufacturing which resulted in a loss of over 500 local jobs, but Kovio relocated to Milpitas, expanding its size and continuing its work with printed electronics. Flextronics purchased Soletron, but consolidated some of its San Jose operations in its Milpitas campus.

Milpitas retailers and hotels, two other critical economic drivers, are beginning to feel the pinch, but retail had a great Black Friday. Both the Great Mall and McCarthy Ranch retailers report strong activity for the first holiday weekend, but Mervyn's is closing. Hotels are feeling the pinch of reduced business travel, but hotel deals are still being pursued in several Silicon Valley cities, including Milpitas.

All of the economic forces in play cannot be effectuated by the City of Milpitas, but the City can be pro-active in its economic development efforts. The City may not be able to change the course of local business decisions, but the City can make sure that local business leaders know the City is interested and available to help as much as possible as noted below.

1. Business Retention and Attraction

Over the last year, the City worked closely with One Workplace/LFerrari to retain that company at its existing location. The Development Review team worked closely with Kovio

and Cisco Systems in their building permitting process, delivering “time to market” service and making certain that the government processes worked for them, not against them. Staff has also worked closely with industrial property owners to assist their efforts to make building improvements to compete with new business attraction. Strengthening the Roadmap to Service Improvements will continue to be one of the most effective business development tools the City offers.

Other business retention and attraction activities would be to host industry focused roundtables to better understand the specific challenges of each business sector and determine how best the City can work with them. With hotels as a strong economic segment in the City, a Hotel Roundtable would be appropriate. Other Roundtables could be with retail brokers and property owners, bankers and lenders, etc.

Direct outreach to individual businesses will also be an effective tool in business retention. During the boom years of the late 1990s and early 2000, it was not uncommon for fast growth companies to relocate from city to city without fully understanding the impact to local government when crossing municipal boundaries. Today, most companies understand the value they bring to cities, whether it is direct via sales tax revenues or indirect through localized spending. One-on-one business outreach is the best way to establish ongoing appreciation of each others business needs and interests.

2. Economic Incentives

Competition among cities to retain existing business and attract new business is keen. Several cities are using redevelopment funds to incent potential businesses in their decision making process. Low interest loans, infrastructure and tenant improvements, local preference policies and marketing assistance may be opportunities for Milpitas to create business development incentives without affecting sales tax generation. Land banking may be another opportunity for Milpitas to invest in its economic future. Using redevelopment funds, the City, acting as the Redevelopment Agency, could begin discussions with property owners who may be interested in selling property that could facilitate redevelopment in Midtown or other critical areas in the City.

Another incentive is to consider local preference purchasing policies in support of a “Shop Local” emphasis. Taking the lead in utilizing as many local business services and goods as possible will have a direct impact on local sales tax revenues. Additionally, as the City conducts outreach, there will be a better understanding of the support industries utilized by local companies to help focus business attraction.

3. Building on Regional Success

With the Oakland A’s baseball franchise considering other sites, Milpitas is in a great position to capture as much “spin-off” as possible. Preliminary traffic reports for a new A’s location in south Fremont showed the team’s fan base coming through Milpitas. The City can be actively working with property owners and existing business to see how this influx of new travelers can be enticed to experience Milpitas.

The 49ers’ football team is looking at a new site in Santa Clara and the San Jose Shark’s hockey team will be looking for a new practice site. These are other opportunities for business development that Milpitas can actively pursue.

Tesla Motors: With San Jose and Tesla Motors negotiating a new Tesla manufacturing site, Milpitas is ripe to capture part of the businesses that will be needed to supply Tesla. In the Economic and Fiscal Impact Report on Tesla Motors presented to the San Jose City Council in September 2008, it was suggested that the manufacturing alone would generate approximately 1,300 jobs in Santa Clara County, not including one-time jobs created by the construction of the facility and offsite improvements. This translates to nearly \$40 million in payroll for a

total indirect economic output of \$1,969 million a year. The City can work with local property owners in an effort to anticipate spinoff business activity that could locate in Milpitas in its support of Tesla.

4. Brand Implementation

Using the approved “Milpitas...Life @ Your Pace” brand, the City can work with local retailers, hotels and restaurants to market the City and its unique businesses at the San Jose Mineta Airport, on local serving radio stations and in local business newspapers and local serving newspaper business sections. Airport advertising on kiosks located within the Baggage Claim areas is a cost effective opportunity to help draw the business and recreational travelers to local hotels, restaurants and retailers that are so close to the airport.

Next Steps:

At the next meeting, staff will report on follow-up direction received from the Mayor and Council during the December 16th meeting and recommend a calendar for one-to-one business outreach and business roundtables.

Recommendation: Receive report from the Economic Development Manager on the current status of economic development in the City of Milpitas.

* 11. **Approve One Youth Sports Assistance Fund Grant to Milpitas Little League Baseball North (Staff Contact: Aaron Bueno, 586-3226)**

Background: On June 17, 2008, the Milpitas City Council approved and appropriated \$8,000 for the Youth Sports Assistance Fund for the 2008–09 budget year. Included in the City Council packet for review and consideration is one Group Youth Sports Assistance Fund application received from the Milpitas Little League Baseball North in the amount of \$1,000, for improved batting helmets, throat guards, catcher’s masks, shin guards and chest protectors to meet National Little League safety requirements

Fiscal Impact: There is currently a balance of \$5,000 in the 2008–09 Youth Sports Assistance Fund. Approval of one Youth Sports Assistance Fund Grant in the amount of \$1,000 will leave a balance of \$4,000 for the remainder of the fiscal year.

Recommendation: The Parks, Recreation and Cultural Resources Commission (PRCRC) and staff reviewed the application on December 8, 2008 and recommend that the City Council grant one Group Youth Sports Assistance Fund application, in the amount of \$1,000 to the Milpitas Little League Baseball North.

* 12. **Receive First Quarterly Noise Report During Trial Period for Residential Solid Waste Collection 6:00 AM Start Time (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On May 6, 2008, as part of its approval of minor Allied Waste franchise agreement amendments, the City Council approved a trial extension of the residential summer 6:00 a.m. collection time, from September 2008 through February 2009. This is the first of two quarterly reports Council requested concerning the number of noise comments or complaints generated between 6:00 a.m. and 7:00 a.m. from residential solid waste collections. During the first three months of this trial through November 30, 2008, neither City staff nor Allied Waste received any noise complaints related to solid waste services. Staff will continue to monitor this item and will provide a second quarterly report in March 2009.

Fiscal Impact: None.

Recommendation: Receive quarterly noise report during trial period for residential solid waste collection 6:00 AM start time.

- * 13. **Authorize Staff to Apply for Tree City USA Recertification for 2008 (Staff Contact: Greg Armendariz, 586-3317)**

Background: Tree City USA is a community improvement project sponsored by the Arbor Day Foundation in cooperation with the National Association of State Foresters, USDA Forest Service, US Conference of Mayors and National League of Cities. The City of Milpitas has been certified as a Tree City USA since 2000 for the City's commitment to establishing and maintaining a community forest.

Tree City USA certification is awarded annually to cities that meet the following standards:

- Dedicated staff to manage a comprehensive tree management program.
- Adopt a tree ordinance.
- An annual budget of at least \$2 per capita (\$130,000 for Milpitas)
- The observance and proclamation annually of Arbor Day.

The City of Milpitas continues to meet all four standards for calendar year 2008.

As a designated Tree City USA, the City of Milpitas benefits by gaining preference in obtaining grant monies for trees or forestry programs, education for the community regarding private tree care, guidance to managers to improve current urban forestry practices, and assistance in presenting Milpitas as a community that cares about its environment and the quality of life for residents and visitors.

Fiscal Impact: None.

Recommendation: Authorize staff to apply to the state forester at the California Department of Forestry and Fire Protection for Tree City USA Recertification for 2008.

XIX. ORDINANCES

14. **Waive the First Reading and Introduce Ordinance No. 43.210 Amending Chapter 100, Title V (Traffic) of the Milpitas Municipal Code (Staff Contact: Jaime Rodriguez, 586-3335)**

Background:

This ordinance amends various sections of the Milpitas Municipal Code related to traffic. California law permits the City Council to set speed limits, parking restrictions, vehicle weight restrictions, and other traffic-related requirements within city limits. For efficiency purposes, the City staff proposed Municipal Code updates for Traffic be presented to the City Council for consideration twice a year.

This Municipal Code update through Traffic Ordinance 43.210 serves to: 1) update speed limits based on the recommendations of recently completed Engineering and Traffic Survey studies (speed surveys) that are completed every 7 years to comply with California Vehicle Code requirements and are necessary to allow for radar enforcement by the police department, and 2) to provide consistency with various parking and vehicle restrictions that have occurred over the past several years but were never documented within the Municipal Code.

The changes can be summarized as follows:

SECTION V-100-14.01, INCREASE STATE SPEED LIMIT IN CERTAIN ZONES

Code No.	Action	Street	Segment	Old Speed Limit	New Speed Limit
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.01	Remove	S Abel St	Serra Wy to Redwood Av	35-MPH	
.12	Remove	Yellowstone Av	Landess Av to Sequoia Dr	35-MPH	
.31	Add	Country Club Dr	Entire Segment	25-MPH	30-MPH

SECTION V-100-14.02, DECREASE STATE SPEED LIMIT IN CERTAIN ZONES

Code No.	Action	Street	Segment	Old Speed Limit	New Speed Limit
.02	Remove	S Abel St	Serra Wy to 600-FT South of Sylvia Av	35-MPH	-
.03	Remove	S Abel St	Capitol Av to 600-FT South of Sylvia Av	35-MPH	-
.26	Remove	S Abel St	S Main St to Capitol Av	35-MPH	-
.27	Remove	S Abel St	Redwood Av to N Milpitas Blvd	35-MPH	-
.76	Add	N Abel St	N Milpitas Blvd to Calaveras Blvd	-	35-MPH
.77	Add	N Abel St	Calaveras Blvd to Corning Av	-	35-MPH
.78	Add	S Abel St	Corning Av to Great Mall Pkwy	-	35-MPH
.79	Add	S Abel St	Great Mall Pkwy to S Main St	-	35-MPH
.80	Add	Yellowstone Av	Sequoia Dr to Landess Av	35-MPH	30-MPH

SECTION V-100-15.05, ANGLE PARKING ON CERTAIN STREETS

Code No.	Action	Street	Segment
.01	Remove	Carlo St	In front of US Post Office Building
.02	Remove	Arizona Av	East Side between Midwick Dr and Vienna Dr
.03	Add	Barber Ln	East Side between Bellew Dr to North End of Street
.04	Add	Ranch Dr	West of North McCarthy Blvd to East End of Street
.05	Add	Hammond Wy	West Side, Curtis Av to 1,500-FT North of Curtis Av

SECTION V-100-15.06, PARKING TIME LIMITED ON CERTAIN STREETS

Code No.	Action	Street	Segment	Duration	Time
.06	Remove	Thompson St	West Side from Great Mall Pkwy to Alvarez Common	3 Hours	Any Time
.07	Remove	Thompson St	East Side from Alvarez Common to Machado St	3 Hours	Any Time
.10	Add	Thompson St	West Side from Great Mall Pkwy to Machado St	3 Hours	Any Time

.11	Add	Thompson Ct	West Side from Machado St to North End of Street	10 Hours	7 am to 6 pm Everyday
.12	Add	Thompson Ct	East Side from Machado St to North End of Street	10-Hours	7 am to 7 pm Mon - Fri
.13	Add	S Hillview Dr	East Side from Calaveras Blvd to Los Coches St	4 Hours	7 am to 6pm Mon - Fri
.14	Add	Hammond Wy	West Side, Curtis Av To 1,500-FT North of Curtis Av	10 Hours Mon - Fri	7am to 6pm

SECTION V-100-15.12, VEHICLES IN EXCESS OF CERTAIN GROSS WEIGHT LIMITS PROHIBITED

Code No.	Action	Street	Location
.01	Remove	S Abel St	Calaveras Blvd to S Main St
.03	Remove	Main St	Entire Segment
.04	Remove	Winsor St	Entire Segment
.05	Remove	Dempsey Rd	Entire Segment
.07	Remove	Capitol Av	East of Abel Street
.29	Remove	Minnis Cr	Entire Segment
.35	Remove	Hanson Ct	Entire Segment
.47	Remove	Beresford Ct	Entire Segment
.59	Remove	S Park Victoria Dr	Calaveras Blvd to Dempsey Rd
.60	Add	N Abel St	Weller Ln to Calaveras Blvd
.61	Add	S Abel St	Great Mall Pkwy to S Main St
.62	Add	N Main St	Railroad Av to Weller Ln
.63	Add	S Main St	Curtis Av to S Abel St
.64	Add	Curtis Av	S Main St to Easterly end of Street
.65	Add	Great Mall Pkwy	Tasman Dr to Capitol Av
.66	Add	Capitol Av	Great Mall Pkwy to Southerly City Limit
.67	Add	Dempsey Rd	Yosemite Dr to Montague Exp

SECTION V-100-15.16, SPECIFIC TURNING MOVEMENTS PROHIBITED AT SPECIFIC PLACES

Code No.	Action	Street	Location	Time
.04	Remove	N Milpitas Blvd	North Driveway from City Hall/ Library Parking Lot	7 am to 7 pm
.05	Add	Jacklin Rd	Westbound Jacklin Rd at Hillview Dr (Buses OK)	7 am to 8 am Mon - Fri
.06	Add	Jacklin Rd	Westbound Jacklin Rd At Campbell St	7 am to 8 am Mon - Fri
.07	Add	N Abel St	Southbound N Abel St at Redwood Av(Carpools OK)	6 am to 9 am Mon - Fri
.08	Add	N Abel St	Southbound N Abel St	6 am to 9 am

			at Marilyn Dr (Carpools OK)	Mon - Fri
.09	Add	N Abel St	Southbound N Abel St at Penitencia St (Carpools OK)	6 am to 9 am Mon – Fri

Fiscal Impact: None.

Recommendations:

1. Waive the first reading beyond the title of the traffic ordinance.
2. Introduce Ordinance No. 43.210 amending Chapter 100, V (Traffic) of the Milpitas Municipal Code.

- * 15. **Waive the Second Reading and Adopt Ordinance No. 38.781 Amending the Zoning Ordinance and Related Map (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: On November 18, 2008, the City Council introduced Ordinance No. 38.781, amending the Zoning Ordinance Text to remove references to the Transit Oriented Development (TOD) Overlay and amend the Zoning Map removing the TOD Overlay designation. Ordinance No. 38.781 is ready for a second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 38.781.
2. Adopt Ordinance No. 38.781 for Zoning Amendment ZA08-0006, amending the Zoning Ordinance Text and Zoning Map.

- * 16. **Waive the Second Reading and Adopt Ordinance No. 38.782 Amending the Zoning Ordinance for the Purpose of Approving Zoning Amendment No. ZC2007-3 (Staff Contact: Judie Gilli, 586-3280)**

Background: On November 18, 2008, the City Council introduced Ordinance 38.782, an amendment to the Zoning Ordinance for the purpose of approving Zoning Amendment No. ZC2007-3 (Inclusion of a high rise overlay district, amendment of the zoning sectional map and rezoning a property located at 600 Barber from C-2 to MXD3). Ordinance No. 38.782 is ready for a second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance 38.782.
2. Adopt Ordinance No. 38.782 for Zoning Amendment ZC2007-3.

- * 17. **Waive the Second Reading and Adopt Ordinance No. 38.784 Amending the Zoning Ordinance regarding Massage Establishments (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: On November 18, 2008, the City Council introduced Ordinance No. 38.784, to allow massage establishments as conditionally permitted uses in the MXD, C2 and TC zoning districts. This amendment does not change the licensing and screening procedure conducted by the Police Department. Ordinance No. 38.784 is ready for a second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 38.784.

XX. RESOLUTIONS

- * 18. **Adopt a Resolution Amending the Building Fee Schedule to Include a State-Mandated Building Standards Administration Special Revolving Fund Fee, Effective January 1, 2009 (Staff Contact: Keyvan Irannejad, 586-3244)**

Background: Governor Schwarzenegger signed Senate Bill 1473, which will take effect on January 1, 2009. Among other things, the bill mandates the collection of an additional special building permit fee by local agencies and provides for the State of California's creation of a Building Standards Administration Special Revolving Fund. Monies deposited in this fund will come from the special building permit fee, which shall apply to both residential and non-residential building permits.

The bill requires that each city and county in California collect a fee from an applicant for a building permit, assessed at the rate of four dollars (\$4) per one hundred thousand dollars (\$100,000) in valuation, with appropriate fractions thereof, but not less than one dollar (\$1). "Appropriate fractions thereof" is interpreted to be \$1 per every twenty-five thousand (\$25,000) in valuation per table illustrated below. Fees will be submitted quarterly to the California Building Standards Commission (CBSC), as follows:

Permit Valuation:	Fee:
\$1 – 25,000	\$1
\$25,001 – 50,000	\$2
\$50,001 – 75,000	\$3
\$75,001 – 100,000	\$4
Every \$25,000 or fraction thereof above \$100,000	Add \$1

In addition, SB 1473 provides that the city or county may deduct up to 10% of the fees collected for related administrative costs and for code enforcement education. The bill requires that the local jurisdiction transmit the remainder to the CBSC for deposit in the Building Standards Administration Special Revolving Fund. The state shall primarily use such monies to develop, adopt, and conduct educational efforts associated with green building standards.

Fiscal Impact: Modest staff time to process and collect additional fees, which may be reimbursed up to 10% of total fees collected.

Recommendation: Adopt a Resolution amending the Building Fee Schedule to include a State-Mandated Building Standards Administration Special Revolving Fund Fee, effective January 1, 2009.

- * 19. **Adopt Resolution Authorizing Modification to PERS Plan for Members of the Mid-Management and Confidential Unit (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City Council previously adopted resolutions implementing the 414 (h)(2) program for all employee groups. This program converted from employer paid PERS to employee paid PERS in conformance with Internal Revenue Code Section 414(h)(2) tax deferred plan. When this program was originally implemented in 1995 and 1996, the Mid-Management and Confidential was part of the un-representative unit and has since split into its own unit. This recommended change will create an individual resolution for the Mid-Management and Confidential Unit and will allow PERS ease in processing retirement benefits.

Fiscal Impact: None.

Recommendation: Adopt a Resolution allowing the City to convert to member paid PERS consistent with the provisions of Internal Revenue Code Section 414(h)(2) for members of the Mid-Management and Confidential Unit.

*** 20. Adopt Resolution Authorizing Modification to PERS Plan for Members of Milpitas Supervisors Association (MSA) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City Council previously adopted resolutions implementing the 414 (h)(2) program for all employee groups. This program converted from employer paid PERS to employee paid PERS in conformance with Internal Revenue Code Section 414(h)(2) tax deferred plan. When this program was originally implemented in 1995 and 1996, MSA was part of the Milpitas Employee Association (MEA) and has since split into its own unit. This recommended change will create an individual resolution for MSA and will allow PERS ease in processing retirement benefits.

Fiscal Impact: None.

Recommendation: Adopt a Resolution allowing the City to convert to member paid PERS consistent with the provisions of Internal Revenue Code Section 414(h)(2) for members of Milpitas Supervisors Association (MSA).

*** 21. Adopt Resolution Implementing Pre-Tax Payroll Deduction Plan for Service Credit Purchase Under Internal Revenue Code 414(H)(2) (Contribution Code 14) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The Board of Administration of the California Public Employees' Retirement System (CalPERS), at an April 1996 meeting approved a pre-tax payroll deduction plan for service credit purchases (i.e. Redeposit, Service Prior to Membership, etc.) under Internal Revenue Code (IRC) Section 414(h)(2)(Contribution Code 14). By participating in this "pick up" program, the City of Milpitas may provide its employees who are members of CalPERS, through the option of participation, the benefit of deferring income tax liability on member service credit purchases. The deductions are considered member contributions and are subject to income taxes when received by the member as either a retirement benefit or refund. The resolution applies to all City of Milpitas employees and was approved by the City Council on December 17, 1996.

The two groups, Milpitas Supervisors Association (MSA), and the Mid-Management and Confidential Unit have since formed separate units and the resolution will recognize the separation.

Fiscal Impact: None.

Recommendation: Adopt a Resolution implementing a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) Section 414(h)(2)(Contribution Code 14) for the City of Milpitas employees who are members of Milpitas Supervisors Association (MSA) and Mid-Management and Confidential Unit.

*** 22. Adopt a Resolution Approving the Sole Source Purchase of Forty-Five Self Contained Breathing Apparatus (SCBA) from Drager Safety, Inc. in the Amount of \$224,972.51 (Staff Contacts: Geoffrey Maloon, 586-2820, and Chris Schroeder, 586-3161)**

Background: On October 21, 2008, the City Council adopted Resolution No. 7788 accepting a \$225,000 matching funds grant from the Federal Emergency Management Agency (FEMA). The federal share amount is \$180,000 and the local cost match is \$45,000. City Council also requested staff to explore available pricing under the General Services Administration (GSA). However, documentation from the manufacturer recently revealed that the specific product sought was not

yet officially on the GSA product list, even though the formal application was submitted. Therefore, the desired SCBA equipment cannot be purchased through a GSA contract.

Fire Department staff conducted extensive fit and function test of SCBA equipment including products manufactured by Drager Safety, Inc. (Drager) and four others. The Fire Department analyzed 18 different fit and function criteria and only the Drager model successfully met all of the criteria. Specifically, the Drager equipment was the only SCBA that included the cylinder quick connect/disconnect, which allows the firefighter to change cylinders in less than half the time required for changes using a traditional screw fitting/adaptor in order that suppression personnel can return to the immediately dangerous to life or health environment. In addition, the Drager equipment was the only product that offered adjustable pack sizing to accommodate the height variation in personnel and provide a proper fit to reduce firefighter injury and fatigue allowing for more effective and efficient delivery of service.

After a good faith review of the testing by the Fire Department, the Purchasing Agent determined, pursuant to Municipal Code section I-2-3.09 "Sole Source Procurement," that Drager was the only source for SCBA equipment that met the Fire Department's safety standards, due to the cylinder quick connect/disconnect and adjustable pack sizing.

The manufacturer of the Drager equipment submitted a formal quote equivalent to 40% off list or 5.75% below GSA, and also included 45 extra air cylinders at no charge, valued at \$650 each, for an additional savings of \$29,250.

Fiscal Impact: Funds for this purchase are available from the aforementioned FEMA grant and the Fire Department operating budget.

Recommendation: Adopt a resolution approving the sole source purchase of 45 (SCBA) Self Contained Breathing Apparatus from Drager Safety, Inc. for the not-to-exceed amount of \$224,972.51.

XXI. BIDS AND CONTRACTS

*** 23. Approve Agreement with Schaaf & Wheeler for Consulting Services for Storm Drain Master Plan Update, Project No. 3701 (Staff Contact: Fernando Bravo, 586-3328)**

Background: The Storm Drain Master Plan Update, Project No. 3701, is included in the approved Capital Improvement Program. The work provides an update to the City Storm Drain Master Plan. This update is needed due to land use modifications proposed by the Midtown and Transit Area Specific Plans. The work scope also includes engineering analysis and modeling for determining capacity of the storm drain system and to recommend necessary improvements of locations of insufficient capacity. It is also important to revise and update the Master Plan in order to account for land use changes due to other general plan amendments and capital projects that have taken place in the City since the original publication of the Master Plan in 2001, and to provide proper environmental documentation.

Schaaf & Wheeler, the firm that prepared the original Master Plan, was determined to be the best qualified consultant, and has been selected to provide the consulting services for updating the Master Plan. Staff negotiated a scope and fee for these services not to exceed \$125,249, which is considered reasonable for the work.

Fiscal Impact: There are sufficient funds in the project budget for these consultant services.

Recommendation: Approve an agreement with Schaaf & Wheeler Consulting Civil Engineers, Inc., in the amount of \$125,249 subject to approval as to form by the City Attorney.

- * 24. **Award Construction Contract to George Bianchi Construction, Inc. for State Route 237 Milpitas Monument Sign, Project No. 4170 (Staff Contact: Jeff Leung, 586-3326)**

Background: On November 4, 2008, the City Council approved the project plans and specifications and authorized the advertisement for construction bids. The project provides for a Milpitas gateway monument sign on Caltrans' property with landscaping, lighting and related irrigation system and electrical connection.

The project was advertised and two sealed bids were opened on November 19, 2008 ranging from \$167,404.58 to \$223,156.95. The low responsible bidder is George Bianchi Construction, Inc. with a bid of \$167,404.58. Add alternate electrical connection method D (directional drill) with a cost of \$18,330.00 is recommended to be included in the work. The total contract amount would be \$185,734.58.

Fiscal Impact: None. Sufficient funds are available in the project budget to award this project.

Recommendation: Award a Construction Contract to George Bianchi Construction, Inc. for the State Route 237 Milpitas Monument Sign, Project No. 4170, in the amount of \$185,734.58, including add alternate electrical connection.

- * 25. **Approve \$22,554.22 for the Purchase of Rain Master Irrigation Equipment for the City Park Irrigation System Rehabilitation Project (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City of Milpitas owns 30 parks with 53 irrigation controllers. Under the Park Irrigation System Rehabilitation Project, staff plans to upgrade all of the controllers to be operated by radio from one centralized control location. On November 18, 2008, Council approved the standardization of Rain Master as the City's standard brand of irrigation equipment, and the purchase of \$275,384.48 worth of new equipment toward the project. A price adjustment was made to the software and the radio base assembly lowering the price by \$2,000. Sales tax was not included in the price quote. Staff therefore recommends that Council approve an additional \$22,554.22 to cover the sales tax on the adjusted base amount.

Fiscal Impact: None. \$399,472.00 is available from Project No. 5086 Park Irrigation System Rehabilitation. Purchase price for the equipment is \$273,384.48 plus sales tax of \$22,554.22 for a total of \$295,938.70. The remaining \$103,533.30 will be used for installation service.

Recommendation: Approve the \$22,554.22 sales tax amount on the rain master irrigation equipment purchase from John Deere Landscapes for an adjusted not-to-exceed total amount of \$295,938.70.

- * 26. **Authorize the City Engineer to Execute a Contract Change Order No. 11 with Anderson Pacific Engineering for the Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City Council awarded a project to construct the Main Sewage Pump Station Improvements to Anderson Pacific Engineering Construction, Inc. on December 5, 2006, and construction is underway. This project provides for a complete reconstruction of the existing Main Sewage Pump station, including the construction of a new underground wet well with submersible pumps and inline grinders, a new control building with electrical room, site improvements including drainage, parking areas, perimeter fencing and lighting. This project is currently on schedule and on budget. As construction progresses, additional items of work have been identified, and are recommended for inclusion in this contract under proposed Change Order No. 11 to furnish and install site identification sign, to be placed on the southeast corner of the property. \$12,141.00 is the cost for the change order.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendation: Authorize the City Engineer to execute Contract Change Order No. 11 with Anderson Pacific Engineering Construction, in the amount of \$12,141.00 for the Main Sewage Pump Station, Project No. 6103.

XXII. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, JANUARY 6, 2009**